

# **EXHIBIT 4**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

ALIGN TECHNOLOGY, INC.	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 18-1949-LPS
	)	
3SHAPE A/S, 3SHAPE TRIOS A/S,	)	
3SHAPE INC., and 3SHAPE	)	
MANUFACTURING US, LLC	)	
	)	
Defendants.	)	

**PLAINTIFF ALIGN TECHNOLOGY, INC.'S  
AMENDED RULE 26 INITIAL DISCLOSURES**

Pursuant to Rules 26(a)(1) and 26(e) of the Federal Rules of Civil Procedure, Plaintiff Align Technology, Inc. (“Align”) hereby provides the following initial disclosures based upon the information reasonably available to Align as of this date. By making these disclosures, Align does not represent that it is identifying every document, tangible thing, or witness possibly relevant to this lawsuit. Rather, these disclosures represent a good faith effort by Align to identify information currently available to it that falls within the scope of Rule 26(a)(1). Accordingly, these disclosures do not include information that may be used solely for impeachment purposes.

Align makes these disclosures without waiving any claim of privilege and/or work product protection, or any objection to the discoverability, disclosure, relevance, or admissibility of the information contained in these disclosures. Align’s disclosures are made with the understanding that it does not yet know, and cannot anticipate, all of the positions that it or Defendants 3Shape A/S, 3Shape Trios A/S, 3Shape Inc., and 3Shape Manufacturing US, LLC (collectively, “3Shape” or “Defendants”) may take in this dispute. Therefore, Align reserves the

right to amend, change, modify, supplement, or otherwise alter these disclosures in a manner consistent with the Federal Rules of Civil Procedure, the Local Rules of Civil Practice and Procedure of the United States District Court for the District of Delaware, and the Court's orders in this matter. Align also reserves the right to use any documents or information disclosed or provided by any other party or person for any purpose to the fullest extent permitted by law, and Align reserves the right to rely upon the individuals identified below for subjects other than those identified in this disclosure.

All of the disclosures set forth below are made subject to the above qualifications.

### **INITIAL DISCLOSURES**

#### **A. Identity of Persons Likely to Have Discoverable Information**

After a reasonable inquiry and based upon the information reasonably available at this time, Align identifies the following as individuals likely to have discoverable information that Align may use to support its claims or defenses. In making these disclosures, Align does not waive its right to object, pursuant to any applicable Federal or Local Rule, to the deposition or trial testimony of any of the individuals listed below:

<b>Name of Witness</b>	<b>Contact Information</b>	<b>Subject Matter</b>
Abhishek Ganguly	To be contacted through counsel for Align	Facts refuting 3Shape's claims and defenses
Adi Levin	To be contacted through counsel for Align	The inventions disclosed in the '430, '088, and '089 patents
Avi Kopelman	To be contacted through counsel for Align	The invention disclosed in the '294 patent
Eric E. Kuo	To be contacted through counsel for Align	Align's Invisalign System and iTero Scanner System
Jami Krueger	To be contacted through counsel for Align	Facts refuting 3Shape's claims and defenses
Kerri Kling	To be contacted through counsel for Align	Sales and marketing of Align's Invisalign System and iTero Scanner System and lab business
Leon Rasovsky	To be contacted through counsel for Align	Facts refuting 3Shape's claims and defenses

Lisa Barry	To be contacted through counsel for Align	Sales and marketing of Align's iTero Scanner System and Invisalign System
Maayan Moshe	To be contacted through counsel for Align	The inventions disclosed in the '430, '088, and '089 patents
Mike Sabina	To be contacted through counsel for Align	Facts refuting 3Shape's claims and defenses
Mikhail Minchenkov	To be contacted through counsel for Align	Development, structure, and function of the software relating to Align's iTero Scanner System
Mitra Derakhshan	To be contacted through counsel for Align	Align's Invisalign System and iTero System
Ofer Saphier	To be contacted through counsel for Align	The inventions disclosed in the '430, '088, and '089 patents; the development, structure, and function of the software relating to Align's iTero Scanner System
Srini Kaza	To be contacted through counsel for Align	Facts refuting 3Shape's claims and defenses
Stefan Weichers	To be contacted through counsel for Align	Financial information, including sales information, relating to Align's Invisalign System and iTero Scanner System
Tal Verker	To be contacted through counsel for Align	The inventions disclosed in the '430, '088, and '089 patents
Yossi Atiya	To be contacted through counsel for Align	Development, structure, and function of the optics relating to Align's iTero Scanner System
Zelko Relic	To be contacted through counsel for Align	The development and testing of Align's Invisalign System and iTero Scanner System, the business of Align, Align's products
Arrowhead Dental, Inc.	11170 State St. Sandy, UT 84070 (800) 800-7200	Dental lab use of 3Shape products
Bona-Dent, Inc.	2495 Bonadent Dr. Seneca Falls, NY 13148 (315) 539-8875	Dental lab use of 3Shape products
Carbon, Inc.	1089 Mills Way Redwood City, CA 94063 1 (650) 285-6307	Use of 3D printers with 3Shape products
Dr. Alan Jurim	370 Crossways Park Drive Woodbury, NY 11797 (516) 407-1027	Dental lab and doctor use of 3Shape products
Henry Schein Inc.	135 Duryea Road Melville, NY 11747	Marketing, sale, distribution, and training related to 3Shape's accused products, including regarding 3Shape's infringement of Align's patents

Jesper Bo Jensen		3Shape's knowledge regarding Align's patents and 3Shape's accused products
Ka Man Cheang		The inventions disclosed in the '420 patent
Kainos Dental Lab, Inc.	1844 San Miguel Drive, Suite 103 Walnut Creek, CA 94596 (800) 331-4834	Dental lab use of 3Shape products
Kayla Nakanishi Nakanishi Dental Lab	Nakanishi Dental Lab 2959 Northup Way, Bellevue, WA 98004 (425) 822-2245	Dental lab use of 3Shape products
Mikael Petersen	Unknown	3Shape's accused products including the TRIOS 3 and 4 scanners and associated software as well as the importation and distribution of those products
New Image Dental Laboratory, Inc.	1395 Southlake Pkwy Morrow, GA 30260 (770) 968-0911	Dental lab use of 3Shape products
Patterson Companies Inc.	1031 Mendota Heights Rd Saint Paul, MN 55120	Marketing, sale, distribution, and training related to 3Shape's accused products, including regarding 3Shape's infringement of Align's patents
Raphael Pascaud		Facts refuting 3Shape's claims and defenses
Rasmus Nielsen		3Shape's accused products including the TRIOS 3 and 4 scanners and associated software
Sidse Thinngaard		3Shape's knowledge regarding Align's patents and 3Shape's accused products
Sven Nonboe		3Shape's knowledge regarding Align's patents and 3Shape's accused products
The Argen Corporation	8515 Miralani Dr. San Diego, CA 92126 (858) 455-7900	Use and sales of 3Shape products, as well as related activities such as technical support
Tim Mack	16 Cameron Ct. Princeton, NJ 08540-3924	Facts refuting 3Shape's claims and defenses
Zahn Dental Labs	c/o Henry Schein Inc. 135 Duryea Road Melville, NY 11747	Marketing, sale, distribution, and training related to 3Shape's accused products, including regarding 3Shape's infringement of Align's patents
Alan Bogdanic	To be contacted through counsel for 3Shape	3Shape's accused products including the TRIOS 3 and 4 scanners and associated software

Allan Hyldal	To be contacted through counsel for 3Shape	Facts refuting 3Shape's claims and defenses, Align and 3Shape business dealings
Alexei Miretsky	To be contacted through counsel for 3Shape	3Shape's accused products including the TRIOS 3 and 4 scanners and associated software
Anders Gaarde	To be contacted through counsel for 3Shape	3Shape's accused products including the TRIOS 3 and 4 scanners and associated software
Bardur Isleifsson	To be contacted through counsel for 3Shape	3Shape's accused products including the TRIOS 3 and 4 scanners and associated software
Casper Ryding	To be contacted through counsel for 3Shape	3Shape's marketing practices regarding the accused products
Christoffer Melchior	To be contacted through counsel for 3Shape	3Shape's accused products including the TRIOS 3 and 4 scanners and associated software
Daniella Alelouf	To be contacted through counsel for 3Shape	3Shape's accused products including the TRIOS 3 and 4 scanners and associated software
Henrik Brandt	To be contacted through counsel for 3Shape	3Shape's accused products including the TRIOS 3 and 4 scanners and associated software
Henrik Öjelund	To be contacted through counsel for 3Shape	3Shape's accused products including the TRIOS 3 and 4 scanners and associated software
Jacob Birkelund	To be contacted through counsel for 3Shape	3Shape's knowledge of Align's products and the design of 3Shape's products
Katrina Grøen Rindom	To be contacted through counsel for 3Shape	3Shape's accused products including the TRIOS 3 and 4 scanners and associated software as well as training regarding those products
Kristian Hansen	To be contacted through counsel for 3Shape	3Shape's accused products including the TRIOS 3 and 4 scanners and associated software
Lars Beck	To be contacted through counsel for 3Shape	3Shape's accused products including the TRIOS 3 and 4 scanners and associated software
Lars Lund	To be contacted through counsel for 3Shape	3Shape's accused products including the TRIOS 3 and 4 scanners and associated software as well as marketing and advertising materials related to those products
Marat Khaitov	To be contacted through counsel for 3Shape	3Shape's accused products including the TRIOS 3 and 4 scanners and associated software
Marianne Heidam	To be contacted through counsel for 3Shape	3Shape's accused products including the TRIOS 3 and 4 scanners and associated software

Michael Maccaquano	To be contacted through counsel for 3Shape	3Shape's sales and marketing practices regarding the accused products
Michael Vinther	To be contacted through counsel for 3Shape	3Shape's accused products including the TRIOS 3 and 4 scanners and associated software
Mike Van der Poel	To be contacted through counsel for 3Shape	3Shape's accused products including the TRIOS 3 and 4 scanners and associated software
Mikkel Ninn-Grønne	To be contacted through counsel for 3Shape	3Shape's knowledge regarding the Asserted Patents and Align's products
Nikolaj Deichmann	To be contacted through counsel for 3Shape	Facts refuting 3Shape's claims and defenses, Align and 3Shape business dealings, 3Shape's knowledge regarding the Asserted Patents and Align's products
Prita Andersen	To be contacted through counsel for 3Shape	3Shape's accused products including the TRIOS 3 and 4 scanners and associated software
Rune Fisker	To be contacted through counsel for 3Shape	3Shape's accused products including the TRIOS 3 and 4 scanners and associated software
Simone Siandre	To be contacted through counsel for 3Shape	3Shape's sales and marketing practices regarding the accused products
Sophie Ellersgaard	To be contacted through counsel for 3Shape	Technical and customer support for 3Shape's accused products including the TRIOS 3 and 4 scanners and associated software
Tais Clausen	To be contacted through counsel for 3Shape	Facts refuting 3Shape's claims and defenses, Align and 3Shape business dealings, 3Shape's knowledge regarding the Asserted Patents and Align's products
Wendi Cohen	To be contacted through counsel for 3Shape	3Shape's sales and marketing practices regarding the accused products

Align further identifies and incorporates by reference the individuals disclosed in any initial and/or supplemental disclosures, individuals who were deposed in this case or who have provided testimony relevant to the case by the parties' cross-use agreements, as well as any individuals identified by the parties' documents and things that will be produced in this matter.

Align reserves the right to supplement this information, including to add or remove names, if and

as additional information later becomes known, and to designate and/or call further witnesses at trial. Align also reserves the right to object to the deposition or trial testimony of any individual identified in these initial disclosures. By indicating above the substance of the information known by these individuals and/or the general subject matter of information these individuals possess, Align is in no way limiting its right to call any individuals listed to testify concerning other subjects. Align also reserves the right to rely upon expert testimony regarding the infringement and validity of the patents-in-suit, as well as regarding damages and/or any other issue about which expert opinion testimony may be relevant and appropriate.

**B. Relevant Documents and Tangible Things**

Based upon the information reasonably available at this time, Align identifies the following categories of documents, data compilations, and tangible things in its possession, custody, or control that it may use to support its claims. This disclosure does not include expert material that may be developed, which will be disclosed pursuant to the Federal Rules of Civil Procedure and the Court's scheduling order. This disclosure does not constitute an admission as to the relevance or admissibility of the identified materials or a waiver of any attorney-client privilege, work product protection, or other applicable protection or immunity from discovery. Because discovery is just commencing and Align's search for documents that it may use to support its assertions is ongoing, Align reserves the right to identify additional documents as discovery proceeds.

The categories are:

1. U.S. Patent Nos. 9,975,294, 9,844,420, 9,675,430, 10,507,088, and 10,507,089  
(the "Asserted Patents");



2. Documents related to 3Shape's TRIOS Scanner Systems, Ortho System, and Dental System products that Align has accused of infringing the Asserted Patents;
3. Financial, sales, and/or marketing information related to the 3Shape's products that Align has accused of infringing the Asserted Patents;
4. Documents relating to the conception and reduction to practice of the inventions claimed in the Asserted Patents;
5. Documents related to the prosecution of the Asserted Patents and related patents and applications, including but not limited to the related application and prosecution file history and prior art references cited therein;
6. Prior art and related materials to the Asserted Patents;
7. Documents relating to Align's development, design, marketing, pricing and sales of its competing products, including but not limited to Align's iTero Scanner System.
8. Documents relating to Align's enforcement practices concerning relevant patented technologies;
9. Documents reflecting communications between Align and 3Shape concerning the accused products; and
10. Other documents related to Align's assertions that 3Shape is infringing the Asserted Patents.

Align will produce documents at a mutually agreeable time and location. Documents to be produced that contain confidential information will bear the appropriate designation under the protective order in this case.

**C. Computation of Damages**

Align seeks lost profits and, in any event, no less than a reasonable royalty. The amount Align is seeking is not calculable at this time but will be an amount no less than a reasonable royalty. Align reserves the right to supplement this information as additional information becomes known.

**D. Insurance Agreements**

Align does not have any insurance agreement that falls within Fed. R. Civ. P. 26(a)(1)(A)(iv).

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Dated: October 19, 2020

/s/ Christina A. Ondrick

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**CERTIFICATE OF SERVICE**

I hereby certify that on October 19, 2020, the foregoing was served by electronic mail to all counsel of record.

/s/ Christina A. Ondrick

Christina A. Ondrick